

## **Subpart W Quarterly Conference Call**

April 7, 2011, 11:00 am – 12:00 pm  
Washington, DC

### **[DRAFT] Conference Call Notes**

#### **Meeting Participants:**

EPA HQ: Reid Rosnick, Emily Atkinson, Sue Stahle  
EPA Regions: None  
CCAT: Sharyn Cunningham, Paul Carestia, Lynn Holtz Minasi, Kay Hawkle  
Industry: Oscar Paulson (Kennecott), Wayne Heili (URS Energy)  
Other: Sarah Fields (Uranium Watch), Travis Stills (Energy Minerals Law Center),

#### **Status Update on Action Items from Last Call**

R. Rosnick: Lets begin with a brief discussion of actions I had as follow-ups from the last conference call, as well as new topics that have come up since our last call.

As you can imagine my office has been decimated on technical expertise with the Japan reactors incident. Most of the people in our office have been giving information to the public from that incident and it has been difficult to focus on anything other than the Japanese incident.

On follow-up issues, back in January there was some question on whether or not EPAs contractor on various risk calculations for various scenarios had actually contacted some of the facilities that are either operating or on stand-by. Once we received funding for our contractor because it had lapsed – they began a dialogue with Oscar Paulson of Kennecott and Jim Cain of Cotter. Both gentlemen were able to point us in the direction of NRC data or EPA data held by Colorado Public Health and Environment. That is underway and we have followed up with that. It is in process. As a result, we have discovered that we may not have had all of the data to work with but do now. That information was provided to the contractor and they are now following up. We do not have a revised report with the risk calculations, but expect to have one in several weeks.

O. Paulson: Had I already stated that the document had gone around for review?

R. Rosnick: The original first draft had been developed by the contractor, and there have been comments from the work group back to the contractor. As a result of that review, we were made aware of more data available and now the contractor has that new data, as well as the original work group comments, which are being incorporated.

- O. Paulson: Most if not all of the information we have related to radon flux measurements is all public record. Most is either submitted to the EPA and/or NRC.
- R. Rosnick: I have your email to the contractor in front of me and we appreciate you helping to direct us to that information.
- T. Stills: Are you aware that Cotter is no longer monitoring radon flux at their impoundments?
- R. Rosnick: I had spoken to someone at CDPHE and since the impoundments were no longer operating and they intended to close, we discussed whether or not it was still required to do the radon testing. They felt the Subpart W requirements pertained specifically to operating impoundments and once a facility is going into a non-operational status, the measurements are no longer required.
- P. Carestia: Once they announce they are going to close, they now fall under the milestones provision they are still required to do one final flux test.
- S. Fields: Isn't it the EPA that makes the call that monitoring must continue and not the Colorado Department of Health. I think the EPA should make a decision about that and it should be made publically available. The milestones as part of the license should be part of the plan and the EPA should require them to continue to monitor. The EPA is not taking a hard enough line with this facility because this should all have been included in the milestones.
- ?: Are the milestones used to establish the cap? I think the decommissioning plan should include these milestones, but it may not.
- The EPA told them they should have done the tests in June 2010, but they refused to do it. I don't think we have seen anything from them since them, even though they did not have the milestones in their plan.
- R. Rosnick: Unfortunately we don't have a Region 8 representative on the line today to fill us in on the details of on-going conversations they have had with that facility and with CDPHE.
- S. Fields: The Colorado Public Health Department is currently in violation of their agreement with NRC because they haven't gotten the plan in place for public comment.
- R. Rosnick: Your concern is a licensing requirement so it should be brought up with the NRC.

- S. Fields: Subpart C can be requested by anyone, including the EPA.
- R. Rosnick: At this point, if it is an issue with the reclamation plan, the State and Region 8 are the best resources to answer questions.
- T. Stills: A lot of this goes to the point that this falls under the Subpart W plan. Some companies take advantage of the interim time between when a plant stops receiving waste and when they shut down is a problem that the EPA should consider.
- R. Rosnick: Yes, the EPA will be looking at that. These facilities were built and operating before the 1989 published guidelines with strict rules.
- T. Stills: I don't see why EPA is making that distinction.
- R. Rosnick: The original distinction came in because there were a number of impoundments that could not be retrofitted. Those facilities were given a radon flux standard if they were pre-1989. Post 1989 facilities were asked to conform to different standards, work practice standards.
- R. Rosnick: Update on the risk document that is still in draft form – ORIA management chain is still discussing what type of peer-review will take place. In January we discussed a peer-review process similar to the one being considered for 40 CFR 192 rulemaking. No decision has been made on that – issues and options have been presented. Hopefully by the time of our next call I will have more information for you on that.

The next issue to follow-up on – issues of impoundments where precipitation exceeds evaporation and we are in the process of obtaining and reviewing data that is available.

Subpart W references 40 CFR 192.32(a), and those are the UMTRCA standards for tailings impoundments. That regulation references 40 CFR 264.221 and at that regulation you find surface impoundments design and operating requirements for hazardous waste surface impoundments regulated under the Resource Conservation and Recovery Act (RCRA). If you look at 40 CFR 264.221(g) and (h) there are requirements that can be used to ensure proper operation of tailings impoundments. §264.221(g) states that impoundments must be designed, constructed, maintained and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and rain action; rainfall; run-on; malfunctions of level controllers, alarms and other equipment; and human error. §264.221(h) states that impoundments must have dikes that are designed, constructed and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the

active life of the unit. We are reviewing the language in the regulation. This regulation for design and monitoring the facilities is a strict one and it is where we are starting from. We will continue to look at this; we are concerned that more facilities may exist in areas where precipitation exceeds evaporation.

- T. Stills: Is a numeric emissions limit still being considered as part of this review?
- R. Rosnick: It is being considered as an option. One of the issues that we are reviewing is that for impoundments regulated under Subpart W, not all contain solid tailings; the current method for determining radon flux is Method 115. One of the things we will be asking for comment on is are there any other methods that are more precise or easier to use without the loss of data quality, as compared to method 115? With areas without a solid surface, what methods are available to give us good radon readings? We are in the process of determining if they are efficient and on par with the Method 115 monitoring system.
- O. Paulson: Besides Washington State, there are four facilities of impoundments in Texas (processing into the 1990's) by General Atomics and Chevron (Patamaria). One was in Ray Point, TX in the late 1960's, and one in Carnes County and the Conoco Conquista. Phil Saver and Chuck McClendon have been there a long time.
- R. Rosnick: One of the things I can look at is getting in touch with the Texas groups to obtain any information they have for those facilities.
- O. Paulson: You were talking about alternative methods and at one of the workshops Dr. Ken Baker and Al Cox presented a paper on radon measurements on fluid, essentially using a floating version of Method 115. They essentially put a life preserver out on the pond to get measurements. The Uranium Industry may be publishing information on other methods in the future.
- R. Rosnick: I was at that meeting too and it is certainly a novel idea. We will be asking others to contribute information on any new methods other than the one we currently use. If others have good ideas, we want to see and review them.
- There is one other type of uranium recovery operation I would like to discuss: heap leach pile. They have not existed in the US for a long time. There are some proposals for starting up new heap leach piles and I would like to know from the group if there are any historical radon measurements taken at former heap leach piles.
- O. Paulson: I am not, but I am aware of one by Energy Fields or UMETCO.

- T. Stills: Colorado license was operational until a few years ago. You said there are some proposals, can you list them. Durita – NRC documents and federal register documents. It was still licensed within the last 5 or 6 years. The ground water contamination was measured and it is now a DOE site.
- R. Rosnick: I know of one – I believe it is Sheep Mountain, WY. There have been talks ongoing for the construction and operation of a heap leach pile with the NRC. That is the only one I am aware of.
- S. Fields: I do have one issue that may come up with the Uranium Mill in Paradox Valley – having mines underground or surface mines right next to the Subpart W regulated site. Then you have a situation with emissions from a mill and a mine simultaneously. How would the EPA take into consideration two impact facilities with radon emissions from two types of facilities right next door to one another? Currently the EPA has not radon standards for pit mines. I just wonder in looking at Subpart W facilities, if you are really going to look at the Subpart W facility as totally independent of neighboring facilities that may contribute to pollution?
- R. Rosnick: Well, I haven't given this any thought, but I assume the Region 8 people have. My hunch is that you could determine the difference between the radon and segregate between the radon values between the mine and Subpart W facility. I would expect the NRC guidelines for emission release could be useful. Good background monitoring would be the key to this. I would suspect it probably has been done and I would guess our Region 8 people have thought about this and have taken steps to accommodate that.
- T. Stills: Are you looking at the mills located in the same geographic footprint and the health impacts with accumulative impacts? Because that is the way the industry is headed. Are you looking at that in the Subpart W review?
- R. Rosnick: On this example, we don't have a lot to look at since it hasn't begun construction yet.
- T. Stills: I would hope that in the absence of data you would regulate more rather than less if there is not data, since this is hazardous material.
- O. Paulson: To be complete we should review what the future will look like with facilities located next to each other and how radon emissions will be impacted.
- S. Fields: There is no provision under Subpart A for background monitoring prior to the installation of a radon facility. I think the EPA should take a look at the requirements that should be provided if facilities are located next to one another.

- R. Rosnick: Subpart W includes tailings piles, which exist in heap leach piles. This is one school of thought we are reviewing. So we are looking at this entire spectrum. There may be other collection ponds, evaporation ponds that may contain material that would fall under Subpart W. Where does the radon fit within our regulations?
- S. Fields: This was discussed at the NRC workshop in January about whether Subpart W would cover heap leach piles. The EPA has full authority to create another subpart or regulate radionuclide material.
- R. Rosnick: If you have any ideas or thoughts about this, please submit them to me. It is an interesting thing to debate and we would be more than happy to take your thoughts on this.
- T. Stills: I appreciate the various debates we have had, they have been interesting and some have been productive. We, however, are past due on when the updates and revisions will be proposed. If you gamed us I would be stunned. If you have moved it out, we are at least owed an explanation.
- R. Rosnick: Winter 2011 is not coming up until December 2011. I have not moved the date at all. Maybe this is a semantics problem, but winter 2011 has always meant December 2011.
- O. Paulson: Mines have been co-located with pits and it is really nothing new. Separating radon from pits and mines may be difficult. With the high variability in the background and margin of error, soil radon levels and mine/pit radon levels – as it is all coming together the process will have to be carefully thought out before it is implemented.
- R. Rosnick: We are going to be asking for new methods for how to measure radon levels in all these areas as they converge.
- S. Cunningham: On the website you posted the ATSDR health assessment. That was a draft out for public comment, and the comment period ended in November 2010. In the title on the website, that is not evident. I would just like to request that is updated.
- R. Rosnick: If that is the case, then I apologize and I will have it corrected. When the finalized document is released, I would appreciate if it could be submitted to me and I will post it on the website.
- T. Stills: I would like to see more information listed on the website for us to review, as well as to have the 2010 FOIA responded to in the near future.

R. Rosnick: The FOIA is being processed. We attempted to contact you several times after we received the request, in an attempt to determine the scope of your inquiry, and you refused to speak with us. We are now going through every document that that might possibly be pertinent to your request. I have been doing a lot of juggling between the rulemaking and the FOIA. I suspect that we will complete the task and submit the information to you by no later than May 15.

Our next call is on July 7<sup>th</sup> at 11am EDT. Until we speak again, have a nice Spring.

***ACTION ITEM:***

- Reid: Reclamation plan and radon test milestones for the facility from Region 8 staff
- Reid: One of the things I can look at is getting in touch with the Texas groups to obtain any information they have for those facilities. Phil Saver has been there a long time.
- Reid: Will update the health assessment to reflect it is a draft.
- Reid: Post contractor emails and any others that have gone to me or the Regions.